COMMANDERS DIGEST

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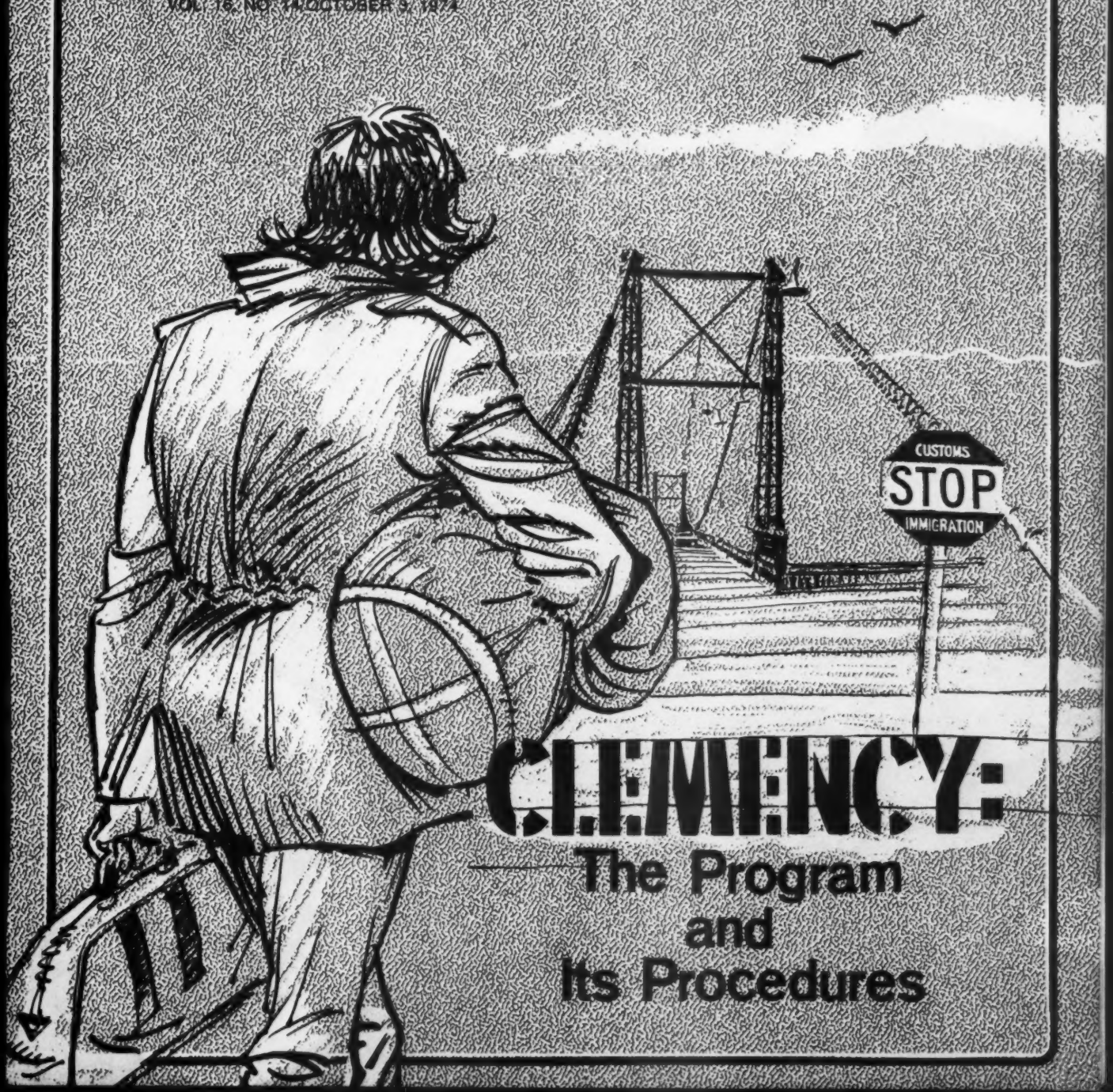

CLEMENCY:

The Program and Its Procedures

SEAL OF THE PRESIDENT OF THE UNITED STATES

A Message from President Ford

In my first week as President, I asked the Attorney General and the Secretary of Defense to report to me, after consultation with other Governmental officials and private citizens, concerned on the status of those young Americans who have been convicted, charged, investigated or are still being sought as draft evaders or military deserters.

On August 19, at the National Convention of Veterans of Foreign Wars in the City of Chicago, I announced my intentions to give these young people a chance to earn their return to the mainstream of American society so that they can, if they choose, contribute, even though belatedly, to the building and the betterment of our country and the world.

I did this for the simple reason that for American fighting men, the long and devisive war in Vietnam has been over for more than a year, and I was determined then, as now, to do everything in my power to bind up the Nation's wounds.

I promised to throw the weight of my Presidency into the scales of justice on the side of leniency and mercy, but I promised also to work within the existing system of military and civilian law and the precedents set by my predecessors who faced similar post-war situations, among them Abraham Lincoln and Harry S. Truman.

My objective of making future penalties fit the seriousness of each individual's offense and of mitigating punishment already meted out in a spirit of equity has proved an immensely hard and very complicated matter, even more difficult than I knew it would be.

But, the agencies of Government concerned, and my own staff, have worked with me literally night and day in order to develop fair and orderly procedures, and completed their work for my final approval over this last weekend.

I do not want to delay another day in resolving the dilemmas of the past so that we may all get going on the pressing problems of the present.

Therefore, I am signing the necessary Presidential Proclamation and Executive Orders that will put this plan into effect.

The program provides for administrative disposition of cases involving draft evaders and military deserters not yet convicted or punished. In such cases, 24 months of alternate service will be required which may be reduced for mitigating circumstances.

The program also deals with cases of those already convicted by a civilian or military court. For the latter purpose, I am establishing a Clemency Review Board of nine distinguished Americans whose duty it will be to assist me in assuring that the Government's forgiveness is extended to applicable cases of prior convictions as equitably and as impartially as is humanly possible.

The primary purpose of this program is the reconciliation of all our people and the restoration of the essential unity of Americans within which honest differences of opinion do not descend to angry discord, and mutual problems are not polarized by excessive passion.

My sincere hope is that this is a constructive step toward a calmer and cooler appreciation of our individual rights and responsibilities and our common purpose as a Nation, whose future is always more important than its past.

At this point, I will sign the Proclamation that I mentioned in my statement, followed by an Executive Order for the establishment of the Clemency Board, followed by the signing of an Executive Order for the Director of Selective Service, who will have a prime responsibility in the handling of the matters involving alternate service.

September 16, 1974

Wide World Photo

The President has issue
Proclamation and Executi
establishing a program of c
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the date of withdrawal of U
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will be eligible. Further, c
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program.

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Number of Draft Evad
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THE PROGRAM FOR VIETNAM ERA DRAFT EVADERS AND MILITARY DESERTERS

potentially eligible. Of these some 8,700 have been convicted of draft evasion. Approximately 4,350 are under indictment at the present time, of whom some 4,060 are listed as fugitives. An estimated 3,000 of these are in Canada. A further 2,250 individuals are under investigation with no pending indictments. It is estimated that approximately 130 persons are still serving prison sentences for draft evasion.

Number of Military Deserters. Desertion, for the purposes of this program, refers to the status of those members of the Armed Forces who absented themselves from military service without authorization for 30 days or more. During the Vietnam era it is estimated that there were some 500,000 incidents of desertion as so defined. Of this 500,000, a number were charged with offenses other than desertion at the time they absented themselves. These other offenses are not within the purview of the clemency program for deserters. Approximately 12,500 of the deserters are still at large, of whom about 1,500 are in Canada. Some 660 deserters are at present serving sentences to confinement or are awaiting trial under the Uniform Code of Military Justice.

Unconvicted Evaders. Draft evaders will report to the U.S. Attorney for the district in which they allegedly committed their offense.

Draft evaders participating in this program will acknowledge their allegiance to the United States by agreeing with the United States Attorney to perform alternate service under the auspices of the Director of Selective Service.

The duration of alternate service will be 24 months, but may be reduced for mitigating factors as determined by the Attorney General.

The Director of Selective Service will have the responsibility to find alternate service jobs for those who report. Upon satisfactory completion of the alternate service, the Director will issue a certificate of satisfactory completion to the individual and U.S. Attorney, who will either move to dismiss the indictment if one is outstanding, or agree not to press possible charges in cases where an indictment has not been returned.

If the draft evaders fails to perform the agreed term of alternate service, the U.S. Attorney will be free to, and in normal circumstances will, resume prosecution of the case as provided in the terms of the agreement.

Aliens who fled the country to evade the draft will be ineligible to participate in the program.

Unconvicted Military Absentees. Military absentees who have no other pending charges may elect to participate in the program. Military deserters may seek instructions by writing to:

- ARMY — U.S. Army Deserter Information Point, Fort Benjamin Harrison, Indiana 46216
- NAVY — Chief of Naval Personnel, (Pers 83), Department of the Navy, Washington, D.C. 20370
- AIR FORCE — U.S. Air Force Deserter Information Point, (AFMDC/DPMAK) Randolph Air Force Base, Texas 78148
- MARINE CORPS — Headquarters, U.S. Marine Corps, (MC) Washington, D.C. 20380

Those who make such an election will be required to execute a reaffirmation of allegiance and pledge to perform a period of alternate civilian service. Those against whom other charges under the Uniform Code of Military Justice are pending will not be eligible to participate in the program until these other charges are disposed of in accordance with the law. Participants in the program will be separated with an undesirable discharge. Although these discharges will not be coded on their face in any manner, the Veterans Administration will be advised that the recipients were discharged for willful and persistent unauthorized absence. They will thus not be eligible for any benefits provided by the Veterans Administration.

The length of required alternate civilian service will be determined by the parent Service for each individual on a case-by-case basis. The length of service will be 24 months, but may be reduced for military service already completed or for other mitigating factors as determined by the parent

Service. After being discharged each individual will be referred to the Director of Selective Service for assignment to prescribed work. Upon certification that this work has been satisfactorily completed, the individual may submit the certification to his former Service. The Service will then issue a special new type of discharge—a Clemency Discharge — which will be substituted for the previously awarded undesirable discharge. However, the Clemency Discharge shall not bestow entitlement to benefits administered by the Veterans Administration.

Alternate Civilian Service. Determining factors in selecting suitable alternate service jobs will be:

- National Health, Safety or Interest.
- Noninterference with the competitive labor market. The applicant cannot be assigned to a job for which there are more numerous qualified applicants than jobs available.
- Compensation. The compensation will provide a standard of living to the applicant reasonably comparable to the standard of living the same man would enjoy if he were entering the Military Service.
- Skill and talent utilization. Where possible, an applicant may utilize his special skills.

In prescribing the length of alternate service in individual cases, the Attorney General, the Military Department, or the Clemency Board shall take into account such honorable service as an individual may have rendered prior to his absence, penalties already paid under the law, and such other mitigating factors as may be appropriate to seek equity among participants in the program.

No Grace Period. There will not be a grace period for those outside the country to return and negotiate for clemency with the option of again fleeing the jurisdiction. All those eligible for the program and who have no additional criminal charges outstanding who re-enter the United States will have 15 days to report to the appropriate authority from the date of their re-entry. However, this 15 day period shall not extend the final date of reporting of January 31, 1975 as set forth in the Proclamation.

Inquiries. Telephone inquiries may be made to the following authorities:

Evaders: Department of Justice (202) 739-4281

Military Absentees: U.S. Navy: (202) 694-2007 (202) 694-1936

U.S. Marine Corps: (202) 694-8526

U.S. Army: (317) 542-3417

U.S. Air Force: (512) 652-4104

U.S. Coast Guard: (202) 426-1830

Presidential clemency board

The President has established by Executive Order a nine member Presidential Clemency Board. The board will review the records of two kinds of applicants. First, those who have been convicted of a draft evasion offense committed between August 4, 1964 and March 28, 1973, inclusive. Second, those who received a punitive or undesirable discharge from the Armed Forces because of a military absentee offense committed during the Vietnam era or are serving sentences of confinement for such violations. The board will recommend clemency to the President on a case-by-case basis. In the absence of aggravating factors, the Clemency Board would be expected to recommend clemency.

When appropriate, the board could recommend clemency conditioned upon the performance of some alternate service. In the case of a military absentee, the board could recommend that a clemency discharge be substituted for a punitive or undesirable discharge.

The board has been instructed to give priority consideration to individuals currently confined. The President has also asked that their confinement be suspended as soon as possible, pending the board's review.

The board will consider the cases only of persons who apply before January 31, 1975. It is expected to complete its work not later than December 31, 1976.

DoD Selects Ft. Harrison As the Centralized All–Service

Clemency Processing Center

Secretary of Defense James R. Schlesinger announced that the Army has selected Fort Benjamin Harrison, Indiana, as the centralized Clemency Processing Center to be used by all Services to process deserters who desire to return under the President's alternate service program.

Deserters who wish to determine if they are eligible for participation in the President's program should telephone or write their parent Service.

- **ARMY — U.S. Army Clemency Information Point, Fort Benjamin Harrison, Indiana 46216**

- **NAVY — Chief of Naval Personnel, (Pers 83), Department of the Navy, Washington, D.C. 20370**

- **AIR FORCE — U.S. Air Force Clemency Information Point, (AFMDC/DPMAK) Randolph Air Force Base, Texas 78148**

- **MARINE CORPS — Headquarters, U.S. Marine Corps (MC) Washington, D.C. 20380**

In addition, information may be obtained by calling one of the following telephone numbers:

U.S. Navy	(202) 694-2007
	(202) 694-1936
U.S. Marine Corps	(202) 694-8526
U.S. Army:	(317) 542-3417
U.S. Air Force:	(512) 652-4104
U.S. Coast Guard:	(202) 426-1830

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The length of required alternate civilian service will be determined by the parent Service for each individual on a case-by-case basis. The length of service will be 24 months, but may be reduced for military service already completed or for other mitigating factors as determined by the parent Service. After being discharged each individual will be referred to the Director of Selective Service for assignment to prescribed work. Upon certification that this work has been satisfactorily completed, the individual may submit the certification to his former Service. The Service will then issue a special new type of discharge — a Clemency Discharge — which will be substituted for the previously awarded undesirable discharge. However, the Clemency Discharge does not bestow entitlement to benefits administered by the Veterans Administration.

	USA	USN	USAF	USMC	*Total
Number of telephone inquires from deserters	2,122	47	12	254	2,435
Number of written inquires	0	4	4	10	18

* *Total inquires as of October 2, 1974*

Procedures to be followed

Unconvicted Draft Evader and Military Absentee

DRAFT EVADER	MILITARY ABSENTEE (including Coast Guard)
Report to United States Attorney where offense was committed	Report as prescribed by the Military Department concerned or for members of the Coast Guard report to the Secretary of Transportation
Acknowledge allegiance to the United States by agreeing with the United States Attorney to perform 24 months alternate service or less based on mitigating circumstances	Oath of Allegiance to United States
	Agree with the concerned Military Department to perform 24 months alternate service or less based upon mitigating circumstances
Perform alternate service under the auspices of the Director of Selective Service	Upon request, Military Department forgoes prosecution, and issues undesirable discharge
Director of Selective Service issues certificate of satisfactory completion of alternate service	Perform alternate service under the auspices of the Director of Selective Service
Receipt by United States Attorney of a certificate of satisfactory completion of alternate service	Director of Selective Service issues certificate of satisfactory completion of alternate service
Dismissal of indictment or dropping of charges	Receipt of a certificate of satisfactory completion of alternate service by the concerned Military Department
	Clemency discharge substitute for undesirable discharge

Convicted Draft Evader and Military Absentee

DRAFT EVADER	MILITARY ABSENTEE (including Coast Guard)
Apply to Clemency Board	Apply to Clemency Board
Clemency Board may recommend clemency to the President	Clemency Board may recommend clemency to the President, including substitution of a clemency discharge for a punitive or undesirable discharge
Clemency Board may condition recommendation of clemency on period of alternate service	Clemency Board may condition recommendation of clemency on period of alternate service
President may grant clemency	President may grant clemency, including substitution of a clemency discharge, for a punitive or undesirable discharge

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